

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES ALLS,

Petitioner,

v.

Case No. 2:15-cv-2323

WARDEN, BELMONT CORRECTIONAL
INSTITUTION

JUDGE MICHAEL H. WATSON
Magistrate Judge Kemp

Respondent.

JAMES ALLS,

Petitioner,

v.

Case No. 2:16-cv-1001

WARDEN, BELMONT CORRECTIONAL
INSTITUTION,

JUDGE MICHAEL H. WATSON
Magistrate Judge Kemp

Respondent.

ORDER

In Case No. 2:15-cv-2323, Petitioner James Alls submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 on June 3, 2015, and moved for leave to proceed *in forma pauperis*. Because his application indicated that he had sufficient funds in his account at the Belmont Correctional Institution, the Court recommended that his application for leave to proceed *in forma pauperis* be denied and that, if Petitioner wished to proceed with this petition, he be directed to submit the appropriate filing fee (\$5.00).

Shortly after that recommendation was made, Petitioner withdrew his petition,

and the case was closed. Docs. 4, 5. After he pursued additional relief in state court, Petitioner moved, on November 19, 2015, to reinstate the case. That motion was granted on September 12, 2016, conditioned on his paying the filing fee. He has never submitted that fee. Rather, on October 19, 2016, he filed a separate habeas corpus action, which is now Case No. 2:16-cv-1001, and moved for leave to proceed *in forma pauperis* in that case.

In a Report and Recommendation filed on May 16, 2017, the Court noted that the petitions filed in the two separate cases were, for all material purposes, identical, and challenged the same state court judgment. Consequently, the two cases were consolidated for all purposes under Fed.R.Civ.P. 42(a). In that same Report and Recommendation, it was recommended that Petitioner's motion for leave to proceed *in forma pauperis* be denied and that Petitioner be directed to pay the \$5.00 filing fee.

Petitioner has not objected to that recommendation, and he has paid the fee. The motion for leave to proceed *in forma pauperis* (Doc. 1 in Case No. 16-cv-1001) is now moot and is therefore denied. Further, the Report and Recommendation is also moot and is withdrawn. The Court will conduct a screening of the petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and will address that matter in a separate Report and Recommendation.

/s/ Terence P. Kemp
United States Magistrate Judge